

3-1-16

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature – Second Regular Session

COMMITTEE ON ENERGY, ENVIRONMENT AND NATURAL RESOURCES

Report of Regular Meeting
Monday, February 29, 2016
House Hearing Room 1 -- 2:00 p.m.

Convened 5:07 p.m.

Recessed

Reconvened

Adjourned 6:15 p.m.

Members Present

Mrs. Barton
Mrs. Carter
Mr. Clark
Mr. Finchem
Mr. Kopec
Mr. Leach
Mr. Saldate
Mr. Bowers, Vice-Chairman
Mr. Pratt, Chairman

Members Absent

Agenda

Original Agenda – Attachment 1

Request to Speak

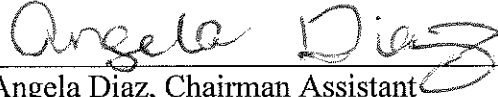
Report – Attachment 2

Presentations

<u>Name</u>	<u>Organization</u>	<u>Attachments (Handouts)</u>
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Committee Action

<u>Bill</u>	<u>Action</u>	<u>Vote</u>	<u>Attachments (Summaries, Amendments, Attendance)</u>
SB1163	DP	8-0-0-1	3, 4, 5
SB1417	Discussion/Held		6, 7
	Committee Attendance		8


Angela Diaz, Chairman Assistant
March 1, 2016

(Original attachments on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov>)

REVISED - 02/25/16

REVISED - 02/25/16

REVISED - 02/25/16

Convened: 5:07pm

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - Second Regular Session

Adjourned: 6:15pm

REGULAR MEETING AGENDA

COMMITTEE ON ENERGY, ENVIRONMENT AND NATURAL RESOURCES

DATE Monday, February 29, 2016

ROOM HHR 1

TIME 2:00 P.M.

Members:

Mrs. Barton
Mrs. Carter
Mr. Clark

Mr. Finchem
Mr. Kopec
Mr. Leach

Mr. Saldate
Mr. Bowers, Vice-Chairman
Mr. Pratt, Chairman

Bills	Short Title	Strike Everything Title
② SB1417	distributed energy generation systems (Lesko, Allen S, Bradley, et al) EENR, RULES	

Discussion/
Held

ADDENDUM #1 - 02/25/16

① SB1163	underground facility; damage; notice (Kavanagh) EENR, RULES
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DP

8-0-0-1

ORDER OF BILLS TO BE SET BY THE CHAIRMAN

AD
2/24/16
2/25/16

People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 926-3032, TDD (602) 926-3241.

Information Registered on the Request to Speak System

House Energy, Environment and Natural Resources (2/29/2016)

SB1417, distributed energy generation systems

Testified in support:

Chad Guzman, AZ PUBLIC SERVICE COMPANY (APS)

Testified as opposed:

Lucy Mason, representing self

Support:

Robert Shuler, WELLTON-MOHAWK IRRIGATION & DRAINAGE DISTRICT; Philip Bashaw, GRAND CANYON STATE ELECTRIC COOP ASSN; Garrick Taylor, Arizona Chamber Of Commerce And Industry; Scot Mussi, Arizona Free Enterprise Club; Jeff Sandquist, TUCSON ELECTRIC POWER COMPANY; Mike Huckins, GREATER PHOENIX CHAMBER OF COMMERCE; Marilyn Purvis, Arizona Bankers Association; Amanda Rusing, East Valley Chambers Of Commerce Alliance ; Manny Tarango, SALT RIVER PROJECT (SRP); Marc Osborn, Arizona Prosperity Alliance; Robert Medler, TUCSON METROPOLITAN CHAMBER OF COMMERCE; David Tenney, representing self; James Candland, AZ PUBLIC SERVICE COMPANY (APS); Tom Dorn, East Valley Chambers Of Commerce Alliance ; Warde Nichols, AZ PUBLIC SERVICE COMPANY (APS); Steven Eddy, TUCSON ELECTRIC POWER COMPANY; Philip Bashaw, GRAND CANYON STATE ELECTRIC COOP ASSN

Oppose:

Brandon Cheshire, representing self; Alison Porter, representing self; DONALD BEGALKE, representing self; Dianne McCallister, THE ALLIANCE FOR SOLAR CHOICE (TASC); Peter Bengtson, representing self; Deborah Zajac, representing self; Patricia Cady, representing self; Fred Haggerson, representing self; Gary Beverly, representing self; Alice Stambaugh, representing self; Kenneth Bierman, representing self; Elna Otter, representing self; Dale Domzalski, representing self; Edward Maney, representing self; Christine Jung, representing self; Alisa McMahon, representing self; Michael Fiflis, representing self; Stephanie Seigla, representing self; Paul Getty, representing self; Ryan Harper, AZ BUILDERS' ALLIANCE; Sandy Bahr, Sierra Club - Grand Canyon Chapter; Stacey Champion, representing self; Brian Gibson, representing self; Arizona Solar Energy Industries Association Holohan, representing self; Randy Miller, representing self; Meghaen Dell'Artino, THE ALLIANCE FOR SOLAR CHOICE (TASC); Mark Minter, EXECUTIVE DIRECTOR, Arizona Builders' Alliance; Dianne McCallister, THE ALLIANCE FOR SOLAR CHOICE (TASC); Cheryl Hasebe, representing self

All Comments:

Brandon Cheshire, Self: Representing SunHarvest Solar and local solar contractors.; DONALD BEGALKE, Self: SB1417 is a regulation bill that will cost Arizonans' jobs because of the costs that will affect the industry. Arizonans will not be happy that the Arizona Legislature laid off Arizonans!!; Peter Bengtson, Self: I have solar panels on my roof. They work well and I'm happy to be using clean energy and distributing the surplus to the grid. Do not implement additional restrictive and unnecessary regulatory hurdles to the solar industry.; Fred Haggerson, Self: I

consider this and unfair bill puts ridiculous burdens on roof top solar contractors. If we need these assurances from roof top solar contractors why aren't they also required from all other major home improvement contractors?; Gary Beverly, Self: Arizona should promote rooftop solar and distribute generation around the state. Solar grid-tie customers now pay over a dozen separate charges to APS for billing, meter reading, infrastructure, and many other components. Seems like we pay our share; Elna Otter, Self: Legislation in this body should reflect what we tell tourists. SB1417 penalizes solar and thus would encourage continuation of fossil fuels and dirty air, not the sun and clear weather which Arizona projects. Let citizens choose without penalty.; Edward Maney, Self: This bill is the wrong direction for Arizona to move toward for the future of energy generation.; Paul Getty, Self: This is just another attempt to penalize Solar in our great state of abundant sunshine. Everyone has to develop the guts to say "break free of fossil fuels"!; Lucy Mason, Self: While improvements have been made, the redundancy of many of the remaining provisions and the lack of any requirement of timely review/approval/data provision from the utilities to installation companies creates an unworkable regulatory burden.; Stacey Champion, Self: This bill will harm small, local solar businesses, creates redundancy, and is a step backward for promoting clean, renewable energy in our state. Please vote NO and put constituents before utility monopolies for a change.; Randy Miller, Self: This bill is just changing an existing bill that just went into law less than 2 months ago. We've already lost over 2,200 jobs in AZ last year due to the utility companies punitive solar rates. We don't need anymore hurdles for the solar industry.; David Tenney, Self: Dave Tenney is the Director of RUCO; Mark Minter, Arizona Builders' Alliance: Job killing, over-reach of regulation.; Steven Eddy, TUCSON ELECTRIC POWER COMPANY: Jeff Sandquist will be speaking on behalf of TEP today.; Cheryl Hasebe, Self: APS and SRP have decimated the solar industry in the state that should be leading in solar energy. We have lost 2,400 solar jobs since 2014. I oppose SB1417 because it places more onerous requirements on solar installers.

SB1163, underground facility; damage; notice

Testified in support:

Lori Lustig, Arizona Corporation Commission

Support:

Rebecca Hudson, Analyst, Corporate Public Affairs, SOUTHWEST GAS CORP; Garrick Taylor, Arizona Chamber Of Commerce And Industry; Philip Bashaw, GRAND CANYON STATE ELECTRIC COOP ASSN; Steven Eddy, TUCSON ELECTRIC POWER COMPANY; Chad Guzman, AZ PUBLIC SERVICE COMPANY (APS); Manny Tarango, SALT RIVER PROJECT (SRP); Jeff Sandquist, TUCSON ELECTRIC POWER COMPANY; Robert Medler, TUCSON METROPOLITAN CHAMBER OF COMMERCE

All Comments:

Lori Lustig, Arizona Corporation Commission: This is an ACC authored compliance bill for our Pipeline Safety Division.; Steven Eddy, TUCSON ELECTRIC POWER COMPANY: TEP and UES support 1163.

PLEASE COMPLETE THIS FORM FOR THE PUBLIC RECORD



HOUSE OF REPRESENTATIVES

Please PRINT Clearly

Committee on Energy, Environmental & Natural Resources Bill Number SB 1417

Date 2/21/16 ☐ Support ☐ Oppose ☐ Neutral

☒ Name MARK HOLOHAN Need to Speak? ☒ Yes ☐ No

☐ Representing ARIZONA SOLAR ENERGY INDUSTRIES ASSN. Are you a registered lobbyist? ☐

Complete Address 14422 N. 174th PL,

E-mail Address _____ Phone Number _____

Comments: _____

FIVE-MINUTE SPEAKING LIMIT



HOUSE OF REPRESENTATIVES

SB 1163

underground facility; damage; notice
Prime Sponsor: Senator Kavanagh, LD 23

X Committee on Energy, Environment and Natural Resources

Caucus and COW

House Engrossed

OVERVIEW

SB 1163 specifies emergency notification requirements for releases of hazardous gases or liquids caused by excavation activities.

PROVISIONS

1. Requires the person responsible for damage to an underground facility caused by an excavation activity to notify the facility operator and 911 or other emergency response agencies if the damage results in the release of natural gas, liquefied petroleum gas, liquefied natural gas, petroleum products or other hazardous gases.
2. Makes conforming changes

CURRENT LAW AND ADDITIONAL INFORMATION

Underground facilities are lines, cables and pipes used for storage and transportation of water, sewage, electricity, telephone, oil, gas or other substances (A.R.S. § 40-360.21 (22)).

The Underground Facilities Law, commonly known as the Blue Stake Law, requires underground facilities to be marked before any excavation activities take place (A.R.S. § 40-360.22). Anyone, including homeowners and professional excavators, must contact Arizona 811 before digging and a utility locator will respond to mark all underground facilities in the area of excavation. No digging may take place until all utilities have been marked and any violators may be subject to a civil penalty of up to \$5,000.

Arizona 811 is a call center located in Tempe, Arizona that facilitates the notification of proposed excavation activities between a facility operator and an excavator.

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON ENERGY, ENVIRONMENT AND NATURAL RESOURCES BILL NO. SB 1163

DATE February 29, 2016 MOTION: DP

	PASS	AYE	NAY	PRESENT	ABSENT
Mrs. Barton		✓			
Mrs. Carter					✓
Mr. Clark		✓			
Mr. Finchem		✓			
Mr. Kopec		✓			
Mr. Leach		✓			
Mr. Saldate		✓			
Mr. Bowers, Vice-Chairman		✓			
Mr. Pratt, Chairman		✓			
		8	0	0	1

APPROVED:


FRANKLIN M. PRATT, Chairman
RUSSELL BOWERS, Vice-Chairman


COMMITTEE SECRETARY

ATTACHMENT _____



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

DEC 22 2015

OVERNIGHT EXPRESS MAIL

Mr. Bob Stump
Chairman
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Dear Mr. Stump:

On July 23, 2015, the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) published its Pipeline Damage Prevention Program Final Rule (49 FR 43835-43869) that may likely impact your State. The rule includes new criteria and procedures to determine the adequacy of State damage prevention enforcement programs, administrative procedures for States to contest a notice of inadequacy, the Federal requirements PHMSA will enforce against excavators for violations in States with inadequate damage prevention laws and programs, and the adjudication process for administrative enforcement proceedings against excavators where Federal authority is exercised. These new rules become effective on January 1, 2016. Please refer to the included guidance brief for background on this new regulation.

Excavation damage continues to be a leading cause of hazardous liquid and natural gas pipeline incidents resulting in death, serious injury, and environmental damage. Damaging a pipeline during an excavation poses a serious safety risk to excavators, the general public living and working in proximity to the excavation site, and the environment. Nationwide statistics show that effective enforcement of a State's one-call law reduces excavation damage and pipeline incidents, and results in increased safety.

In early 2016, PHMSA will initiate State evaluations to determine if State damage prevention one-call laws allow for adequate enforcement. PHMSA will evaluate your State's damage prevention enforcement program and will issue a formal determination in your State, as to whether or not the one-call law enforcement is inadequate in your State. An inadequate determination means that PHMSA may use Federal excavation standards to take enforcement action against an excavator who damages a hazardous liquid or natural gas pipeline in your State. Federal civil penalty levels are \$200,000 for each violation for each day the violation continues with a maximum civil penalty of \$2,000,000 for any related series of violations. Additionally, States that fail to establish an adequate one-call law enforcement program, within five years from

the date of the final PHMSA determination notice, may be subject to a 4 percent reduction in PHMSA State Base Grant funding.

PHMSA strongly believes that effective damage prevention programs, including enforcement, are best addressed at the State level. We stand ready to assist you in whatever way best to help support a strong damage prevention program in your State. If we can be of any further assistance, please contact our Damage Prevention Team by email at excavation.enforcement@dot.gov or by phone at (804) 556-4678.

Sincerely,



Alan K. Mayberry
Deputy Associate Administrator
for Policy and Programs

cc: The Honorable Doug Ducey, Office of the Governor, State of Arizona
Robert Miller, Pipeline Safety Supervisor, Arizona Corporation Commission

United States Department of Transportation (USDOT)
Pipeline and Hazardous Materials Safety Administration (PHMSA)
Pipeline Safety: Pipeline Damage Prevention Programs
49 CFR 196 -- Protection of Underground Pipelines from Excavation Activity
49 CFR 198 -- Regulations for Grants to Aid State Pipeline Safety Programs
Effective January 1, 2016

Background

49 USC § 60114 provides the United States Department of Transportation with back stop authority to conduct administrative civil enforcement proceedings against excavators who damage hazardous liquid and natural gas pipelines in a State that has failed to adequately enforce its excavation damage prevention or one-call laws.

PHMSA published a Final Rule on July 23, 2015, that establishes:

1. Criteria and procedures for determining the adequacy of state pipeline excavation damage prevention law enforcement programs
2. An administrative process for making adequacy determinations
3. Federal requirements PHMSA will enforce in States with inadequate excavation damage prevention law enforcement programs
4. The adjudication process for administrative enforcement proceedings against excavators where Federal authority is exercised

Criteria to be used to Evaluate State Damage Prevention Programs

1. Does the State have enforcement authority including civil penalties?
2. Is there a designated enforcement body?
3. Is the State using its authority and making enforcement records available to the public?
4. Does the State have a reliable means of learning about damages?
5. Does the State have damage investigation practices that are adequate to determine the at-fault party when damage occurs?
6. At a minimum, does State law require:
 - a. Excavators must call 811 before digging
 - b. Excavators must "respect the marks"
 - c. If damage to a pipeline occurs:
 - i. Excavator must report damage to operator at earliest practical moment
 - ii. If release occurs, excavator must call 911
7. Are exemptions from the DP law limited? Written justification of exemptions is required.

Administrative Process for States to Contest Notices of Inadequacy

1. PHMSA issues a notice of inadequacy to the State in accordance with 49 CFR 190.5
2. State will have 30 days to submit written response
3. PHMSA issues final decision
4. State may petition PHMSA to reconsider at any time following a finding of inadequacy; PHMSA will respond not later than the date of the next annual review
5. States that fail to establish an adequate enforcement program within five years of effective date of final rule may be subject to 4 percent reduction in base grant funding

Federal Standard for Excavators

1. Call 811 before excavating
2. Wait for pipeline operators to establish and mark the location of underground pipelines before excavating
3. Excavate with proper regard for the marks, take all practicable steps to prevent excavation damage
4. Make additional use of one-call as necessary
5. Any contact with pipelines must be reported to operator at earliest practical moment
6. If there is a release, excavator must call 911

There are no exemptions in the new regulation for calling 811 prior to excavation. PHMSA understands many States have one-call law exemptions and will be considerate of those exemptions when undertaking Federal enforcement action.

For More Information

<http://phmsa.dot.gov/pipeline/safety-awareness-and-outreach/excavator-enforcement/>

Contact Our Damage Prevention Team

Our team of damage prevention professionals, Sam Hall, Annmarie Robertson, and Steve Fischer, are available to answer questions pertaining to this final rule, State one call laws, and damage prevention. They may be reached at excavation.enforcement@dot.gov.



HOUSE OF REPRESENTATIVES

SB 1417

distributed energy generation systems
Prime Sponsor: Senator Lesko, LD 21

X Committee on Energy, Environment and Natural Resources

Caucus and COW

House Engrossed

OVERVIEW

SB 1417 prescribes installation, interconnection and energizing processes for distributed generation systems and makes changes to the warranty and consumer disclosure requirements for the sale, lease or finance of a system.

PROVISIONS

Distributed Generation System Interconnection

1. Defines *energize* and *energized* as a distributed generation system (DG system) that is installed and operational for generating and storing electricity.
2. Defines *interconnected* or *interconnection* as a DG system that is connected and able to transfer electricity to the power grid.
3. Prohibits anyone from installing, interconnecting or energizing a DG system until an application has been submitted to and approved by the utility that owns or operates the power grid and the applicant must follow the utility's interconnection requirements.
 - a. The application must disclose the current owner at the time the DG system will be energized and the utility must be notified of any ownership changes.
4. Allows utilities serving less than 75,000 customers to waive the prescribed interconnection requirements.
5. Requires DG systems to be energized and interconnected before lease payments begin.

Installation and Safety Standards

6. Adds that installation of DG systems must be in compliance with state and federal consumer protection, performance, certification, marking, installation and safety standards.
7. Applies disciplinary actions to contractors that fail to meet installation, safety or other prescribed standards.
8. Removes the ability of the Registrar of Contractors (ROC) to conduct random inspections of solar devices.

Agreements and Sales Documents

9. Requires any blank spaces in a finance, sale or lease agreement for a DG system to be shown to and initialed by the consumer when signing the agreement.
10. Adds that the following must be separately acknowledged by the consumer:
 - a. The provision granting the consumer to rescind the agreement within three business days after the agreement is signed and before the system is installed;

- b. A description of the make and model of the DG system major components or a guarantee concerning energy production output the system will provide for the duration of the agreement; and
 - c. The total purchase price or cost for the life of the agreement, any interest or fees to be paid, the total number of payments, payment frequency, the amount of payment and the payment due date, if the system is financed or leased.
 - Current law requires this information to be disclosed to the consumer in the agreement but does not specify this information must be separately acknowledged (A.R.S. § 44-1763(A)).
11. Stipulates the agreement must contain the information required in A.R.S. § 32-1158 for contracts.
12. Requires utility rate projections provided in an agreement or sales documents to include an estimate of the consumer's future utility charges for the duration of the agreement.
- Current law requires agreements and marketing materials containing projections of future utility charges based on future utility rates to provide an estimate of the utility charges during the same period as impacted by potential rate changes from plus or minus 5% range from current utility costs (A.R.S. § 44-1763(A)(12)).
13. Requires documents and sales presentations to:
- a. Substantiate methodology used to calculate and reasonably quantify the cumulative savings the consumer would receive for the duration of the agreement; and
 - b. Include historical utility rates in the same utility service territory as the consumer for the preceding period that is the same timeframe as the duration of the agreement.

Warranties

14. Requires the major components of leased or financed DG system to be warranted for two years or, in lieu of warranting, guarantee the energy production output that will apply to the duration of the finance or lease agreement.
- a. Requires warranty periods for DG system major components that are less than the duration of the agreement to be disclosed to and separately acknowledged by the consumer.
15. Requires a written warranty to be provided in the agreement for financing, sale or lease of a solar energy device.
16. Removes the requirement for ROC to adopt rules regarding the warranty statement.

Miscellaneous

17. Removes references to and requirements of the shuttered Governor's Energy Office.
18. Includes DG system in the definition of *solar device*.
19. Makes technical and conforming changes.

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON ENERGY, ENVIRONMENT AND NATURAL RESOURCES BILL NO. SB 1417

DATE February 29, 2016 MOTION: Discussion / Held

	PASS	AYE	NAY	PRESENT	ABSENT
Mrs. Barton					
Mrs. Carter					
Mr. Clark					
Mr. Finchem					
Mr. Kopec					
Mr. Leach					
Mr. Saldate					
Mr. Bowers, Vice-Chairman					
Mr. Pratt, Chairman					

APPROVED:

Angela Diaz
COMMITTEE SECRETARY

FRANKLIN M. PRATT, Chairman
RUSSELL BOWERS, Vice-Chairman

ATTACHMENT _____

ARIZONA STATE LEGISLATURE
Fifty-second Legislature - Second Regular Session

COMMITTEE ATTENDANCE RECORD

COMMITTEE ON ENERGY, ENVIRONMENT AND NATURAL RESOURCES

CHAIRMAN: Franklin M. Pratt VICE-CHAIRMAN: Russell Bowers

DATE	2/29 /16	/16	/16	/16	/16
CONVENED	5:07pm	m	m	m	m
RECESSED					
RECONVENED					
ADJOURNED	6:15pm				
MEMBERS					
Mrs. Barton	✓				
Mrs. Carter	✓				
Mr. Clark	✓				
Mr. Finchem	✓				
Mr. Kopec	✓				
Mr. Leach	✓				
Mr. Saldate	✓				
Mr. Bowers, Vice-Chairman	✓				
Mr. Pratt, Chairman	✓				

√ Present --- Absent exc Excused